



COMMUNITY DEVELOPMENT DEPARTMENT

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PLANNING COMMISSION MEETING MINUTES

REGULAR MEETING

OCTOBER 11, 2005

Note: The meeting was recessed to October 13, 2005 for discussion in the transaction of item 3 / 4. The minutes are continuous to reflect that reconvening.

PRESENT: Acevedo, Koepp-Baker, Benich, Davenport, Escobar, Lyle, Mueller

ABSENT: None

LATE: None

STAFF: Director of Business Assistance and Housing Services (DBAHS) Toy (10/11/05), Planning Manager (PM) Rowe, Senior Planner (SP) Tolentino, Deputy Director of Public Works (DDPW) Bjarke (10/13/05), Senior Civil Engineer (SCE) Creer (10/13/05) and Minutes Clerk Johnson.

Also present: Erika Spencer of Pacific Municipal Consultants, 585 Cannery Row, Suite 304, Monterey and Sobrab Rashid, PE of Fehr & Peers, Transportation Consultants, 255 N. Market St., San Jose

Chair Lyle called the meeting to order at 7:05 p.m., and led the flag salute.

DECLARATION OF POSTING OF AGENDA

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OPPORTUNITY FOR PUBLIC COMMENT

Chair Lyle presented the opportunity for public comment.

Chair Lyle announced the minutes of the meeting of September 27, 2005 will be considered at the October 25, 2005 meeting.

With no one members of the audience indicating a wish to address matters not on the agenda, the time for public comment was closed.

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OLD BUSINESS:

1) ZA-05-06: CITY OF MORGAN HILL-MAST ST. PUD DISTRICT AMENDMENT

An amendment to the zoning designation of a 2.94-acre parcel located at the northwest corner of Mast St. and Railroad Ave. from MG, General Industrial to PUD, Planned Unit Development. The purpose of the PUD zoning is to allow concrete batching plants as a permitted use on the subject property and silos up to 70 feet tall.

DBAHS Toy gave the staff report. "You've heard the details before," he said to the Commissioners, "when the Planning Commission took action at the August 9, 2005 meeting." However, DBAHS Toy spoke of 'noticing issues' which required the matter to be revisited again. He gave a brief overview of site and the PUD overlay for the concrete batch plant. In closing, DBAHS Toy said the revised Resolution reflected the Commissioners comments at the prior meeting.

Chair Lyle opened the public hearing.

Sam Laub said he and his wife are property owners at 120 Mast St. "What you are doing is a commendable position, but it doesn't fit where the City wants to move it," Mr. Laub told the Commissioners. Mr. Laub said the nearby buildings are approximately between 22 - 25 feet in height and this structure is up to three times that height. Mr. Laub indicated he felt the site would a very poor use for other reasons, as well:

- increase in traffic flow pattern
- residential mixed use at church and Mast St.

"I don't believe it will 'fit' in with the area," Mr. Laub declared as he asked for 'strong reconsideration' of the previous decision/vote. Mr. Laub said that in addition, there were other points to consider: it is not a good location for the use (concrete batch plant); it does not fit with the long range General Plan; the use will interfere with residential uses nearby. Mr. Laub urged the Commissioners to 'put this type of use- which is just not compatible – into a different category rather than pass the Resolution being presented. Mr. Laub emphasized that he is at the corner of Mast and Church, having owned there since 1978. Mr. Laub said he didn't want to disturb tenants with the noise from the concrete batch plant as he told of the light industrial uses on his property.

Eugene Margherma, 2303 Kimberly Court, cautioned the Commissioners to 'take heed of what Mr. Laub said. Mr. Margherma asked why the owner is moving the batch plant from the San Pedro Street location. Mr. Margherma stated it would be ridiculous to have this type of operation at the proposed location. "I just heard of it," he insisted, asking how/why the Commissioners based approval for the project. "Please tell me why you are recommending it," Mr. Margherma said.

With no others present to address the matter, the public hearing was closed.

PM Rowe recalled to the Commissioners that the concrete batch plant had been located on East Main (southside) which was fine for the past but with the now mixed use designation in Downtown and the site located right next to CalTrain station, the site was no longer suitable. Further, the present location is not zoned for heavy industrial use. It is anticipated that the proposed site will not be developed soon, but of

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all locations in town, PM Rowe said, this is one is the most logical. It was noted that the language in the resolution [Exhibit A: Development Standards (3)] states that the vehicles /trucks are prohibited use of streets residential, and while this is not a 'route limitation' the prohibition is an agreed-upon conditions. Other conditions deal with dust, noise, etc. and PM Rowe told of the equipment the applicant will be required to install to meet those conditions.

For the benefit of the audience, Chair Lyle again clarified that regarding residential streets, the use of delivery trucks would not be used, except for direct delivery of service to homes on the streets.

Commissioner Benich spoke on the need for batch plants in the City. He observed that a plant such as the one planned for the new location would have equipment which would create less pollution.

Commissioner Acevedo reminded that the owner of the plant had explained the upgrades and that was a basis for the Commissioners making their decision. Commissioner Acevedo said the applicant had provided pictures of the design and explained the upgrades from the current equipment which are designed to provide reclamation of dust and material particles.

Commissioner Benich continued by recalling that the City had provided 'no deal' to the applicant and the City faced the loss of the operation without a move to the new site. change "other site" to "City"

COMMISSIONER MUELLER OFFERED REVISED RESOLUTION NO. 05-45, RECOMMENDING APPROVAL OF A PLANNED UNIT DEVELOPMENT (PUD) DISTRICT FOR A 2.94-ACRE PARCEL LOCATED AT THE NORTHWEST CORNER OF MAST ST. AND RAILROAD AVE. TO ALLOW CONCRETE BATCHING PLANS AS A PERMITTED USE AND SILOS UP TO 70-FEET IN HEIGHT, INCLUSIVE OF THE FINDINGS AND CONDITIONS IN THE RESOLUTION. COMMISSIONER ESCOBAR PROVIDED THE SECOND TO THE MOTION, WHICH PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, KOEPP-BAKER, LYLE, MUELLER; NOES: NONE; ABSTAIN: DAVENPORT who indicated the abstention was due to not having been present for the initial discussion; ABSENT: NONE.

NEW BUSINESS:

2) DA-05-10: BARRETT-SYNCON

A request for approval of a development agreement covering phases I & II (18 units) of the proposed 53 unit Rose Garden subdivision to be constructed on a 10 acre site located on the south side of San Pedro Ave., north of Barrett Ave. at the westerly termination of San Vicente Dr. and San Ramon Dr.

Chair Lyle announced this item would be tabled at request of applicant and no action would occur at this meeting, however the public hearing would be held as it had been posted.

PM Rowe presented the staff report, noting this was a request for approval of a

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Development Agreement for an 18-unit portion of the 53-unit single family development. Saying the details of the circulation element of the plan were of interest, PM Rowe provided details of that portion of the Agreement. PM Rowe advised that Development Agreements are part of the process to secure commitments made during the housing allocation process. PM Rowe said that the applicant had developed the schedule for build out as he wanted points for ongoing development. The applicant is requesting that the Development Agreement be processed along with the Subdivision application and asked that the Development Agreement be tabled at this time. The item will be re-advertised brought back for action at the Commission.

Chair Lyle noted that in the correspondence received the applicant had asked for a specific date. Chair Lyle said, "That may not be achievable by the requested date. Staff recommended the matter be tabled to an indeterminate date."

Chair Lyle opened the public hearing.

There were no persons in the audience to speak to the matter. The public hearing was closed.

COMMISSIONERS MUELLER/ESCOBAR MOTIONED TO TABLE THE MATTER OF DA-05-10: BARRETT-SYNCON TO A FUTURE PLANNING COMMISSION MEETING. THE MOTION PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT. NONE WERE ABSENT.

Because items 3 and 4 were closely linked and no decision would be made at the current meeting,, the two items were discussed jointly.

**3) GPA-04-12:
COCHRANE-CITY
OF MORGAN HILL**

A request to amend the General Plan Map and Circulation Plan of the Morgan Hill General Plan to relocate a future collector street to extend from Mission View Dr. north of Cochrane Rd. instead of extending from DePaul Dr. (4) A request for approval of a planned unit development, tentative map, and use permit for a 657,250-sf sub-regional commercial shopping center. The project site is 66.49 acres and is located at the northeast quadrant of Cochrane Rd and Hwy 101 in a Planned Unit Development/Highway Commercial (PUD/HC) Zoning District.

**4) ZA-04-12/
SD-05-05/UP-05-11:
COCHRANE-
DINAPOLI/
BROWMAN**

Chair Lyle and Commissioners Davenport, Escobar and Mueller stated that they had individually been contacted by the applicant/representative for discussion regarding the application/project.

SP Tolentino provided the staff report, with the reminder that this matter deals with the proposed shopping center at the northeast corner of Cochrane Road and Highway 101. The project includes, SP Tolentino indicated, Target relocation to this site, as well as a multiplex cinema plus various eateries. The Commissioners were hearing the matter for discussion at the evening's meeting and would be considering for vote on October 25:

- General Plan amendments
- Zoning amendment for the Planned Unit Development (PUD)
- Subdivision Agreement
- Conditional use permit

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Several items of interest concerning the project were presented by SP Tolentino:

- Conditional use permit request for a gas station/convenience store at pad 2
- General Plan Amendment request for the relocation of a collector street from north of DePaul to Mission View [SP Tolentino explained the benefits of such]
- Zoning amendment
- precise development plan
- PUD guidelines including uses permitted and development standards
- the Municipal Code which includes City-wide PUD standards
- a detailed comparison of the two guidelines was presented in table form in the staff report

SP Tolentino advised that on October 6, 2005 the Architectural Review Board (ARB) had viewed the proposed plans and provided feedback to the applicant's suggested guidelines. During discussion at that meeting, some agreements of modification had taken place. SP Tolentino called attention to the table in the staff report which provided insight into those modifications.

With respect to the PUD guidelines, SP Tolentino said, the applicants are requesting signs larger than currently allowed under the Sign Ordinance. SP Tolentino explained that any deviation of signage would require a separate sign variance application.

SP Tolentino provided thorough detail of the findings for the gas station/car wash and spoke on the staff recommendation for the service.

SP Tolentino advised that the final EIR was ready for distribution and portions of it would be discussed at the meeting underway. The Consultant for the EIR was present to consider questions regarding the document, as well.

Chair Lyle recommended that since the EIR information was not previously available, there could be further discussion at the October 25 Commission meeting.

Commissioner Benich called attention to the request for variance of building heights and what the next steps of the process would be.

Chair Lyle opened the public hearing.

Darryl Browman, 100 Swan Way, Suite 206, Oakland, addressed the Commissioners as the representative of applicants. Mr. Browman said an extensive amount of work had gone into planning the project and the developers want to present something very unique which is not presently available in Morgan Hill. "It is important to lease and manage the project following development," Mr. Browman stated. He said the developers have held meetings in neighborhoods nearby the proposed project and enjoy a good relationship with the neighborhood. Mr. Browman detailed the work with ARB, as well as offering discourse on the draft EIR.

Mr. Browman spoke on:

- elevations for the Target site which he said represents a design

- providing significant departure from the usual style 'it's not franchise architecture'
- displayed what junior anchor buildings will look like
- use of traditional color schemes
- the theater providing a 'nice statement'
- outdoor pedestrian plazas areas
- examples of the landscape plan (heavy on trees)
- intent to make the center an inviting place
- pictorial models of the main intersections with flowering trees and palm trees which will go with the Art Deco flavor
- significant amounts of landscaping and pedestrian walk
- the '8 - 9 enhancements' added to the City PUD guidelines
- heightened visual esthetics
- boulevard theme
- intent to create dining experiences with shading/trees for visually attractiveness
- desire to create one large, unified center but with distinctive shopping areas: large retailers in one area – boulevard mixed use of retail/dining

Mr. Browman spoke briefly on signage height(s) emphasizing that the signs will be more of an art form while displaying advertising. "The signs will match the architectural theme so there is an extension of what we are trying to do," Mr. Browman declared. "We will work at matching/tying in with other features."

Turning to the reasons for submitting supplements to the PUD guidelines, Mr. Browman said he was making the request on behalf of the developer as well as keeping in mind the new Target store. "I think the current PUD guidelines were designed for projects in the 20 - 30 acre range. This project is twice that large," he said.

Regarding the building heights, Mr. Browman said the developer is asking for flexibility and giving the Target facility as an example of being only 30 feet at highest point.

Mr. Browman said he was asking now for flexibility so he would not constantly be coming back, and called attention to certain of the requested exceptions to the City guidelines as he utilized the table in the staff report:

item #6 He said this was based on a practical limitation of having the door of a business face the street as he commented, "Many restaurants want the front entrance door near parking."

item #7 in cases where downspouts at rear of building, the developer wants architectural pleasing looks and prefers features that provide treatment to match the architectural features such as downspouts on all sides of building painted or textured to match the building

item #8 Wants to eliminate the 'blank wall' look and provide interest.

item #9: Mr. Browman described this as 'not practical for this type of center'; retailers need some visual windows so employees and patrons can see through'.

items # 13 and 14: Mr. Browman said the developer is trying for flexibility and needs

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the ability of being flexible. "We are in a unique situation at specific locations of the center so a minimal amount of landscape setback will be needed in those areas. Mr. Browman requested 'some sort of mechanism' to deal with the issue and told Commissioners he talked about the matter at the ARB. "We see a practical approach in item #22 with the applicant's suggested guideline when we wrote that 'on-average' we would like to maintain the flexibility that so where we need higher berming, or differing landscaping, it would be possible," Mr. Browman stated. Digressing for the moment, Mr. Browman commented that: "Really it is an issue of how to have a mechanism for meeting the PUD guidelines. In this 62.5 acre project it will difficult to buy trees which will be uniform to all areas, so we will pick an appropriate size for the plantings, but are hesitant to be specific at this time with species but will rely on the recommendation of the CA Nurseryman's Association for sizes and types of trees, including those in containers. (item #20)" Mr. Browman continued by saying that the developer would like to present a specific landscape plan for the center but if it had to be changed, be given the ability to go back to the ARB and citing as an example: outdoor dining, different looks. He assured that the center will have an 'extensively' landscaped plan. "We need to represent to the tenants what the landscaping will look like as this could be a big issue for prospective tenants," he said, agreeing that the compromises suggested already are good.

Item #34 Front door parking: Mr. Browman told of plans for parking limitation near the big stores with allowances adjacent to the smaller retail shops. In certain nodes, a grocery store for example, Mr. Browman said, we may need to design angled parking but since there is not a grocery designated now he was requesting to work with staff to complete as necessary.

Item #37: Truck deliveries. Mr. Browman said it was not believed that this matter should be restricted out of hand 'but if it becomes a problem', it is requested that retailers will implement hours of delivery restrictions. He said he hopes to do good enough job with tenant recruitment so that it will not be a problem.

Item #40: "Signage is vitally important if this is to be a regional center," Mr. Browman stated. "We need visibility on the freeway but we intend to make an architectural statement as well." One of the guidelines being requested is for pole lighting as high as 35 feet for the parking lot. The intent of these light poles is to provide security and lessen the number of light standards required throughout the center. Mr. Browman said that the developer possesses sensitivity for the perimeter so no bleeding of lights will be to adjacent properties. He called attention that the original plan of the PUD guidelines would result in 200 poles in the center. Mr. Browman said that is 'so huge an amount and we feel it would be more energy efficient to have the taller heights for better illumines.

Commissioner Benich commented it would be a 'trade-off' with fewer lights but higher poles.

Mr. Browman continued by calling attention to other items of interest:

Item #41: The developers would support outdoor retail display activity, he said, to create greater awareness of available merchandise.

Items #46-47: Mr. Browman said the developer needs flexibility for transformers, etc in landscaped areas as he suggested screening such as more bushes, trees instead of having a 'big green box in the center of a parking lot; landscaping could also help back flows, etc 'go away'.

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Item #48:Mr. Browman said that the large retailers need cart storage in outdoor areas and the developer is working on having screening for the cart storage areas.

With respect to the EIR, Mr. Browman said the developer disagrees with the condition that restaurants be limited to 20%; a better way, he said, if limitations are needed, is to determine if a restaurant is truly a 'sit down' and not a fast food or just eliminate the requirement in all phases. Mr. Browman said he has worked on large projects where 25+ eateries have been with no resultant problems.

As to the requirement of having the drainage basin put on a system that limits the flow of water during storm conditions, Mr. Browman asked for 'some ability or some other mechanism which the meets the stated goals'. He said that the PUD detention guidelines say 'no' to placing the detention pond within setbacks but the developer thinks this is the most appropriate area and will provide screening with evergreens.

Dick Oliver, 385 Woodview Ave, #100, informed Commissioners he is a principle of Dividend Homes which built Mission Ranch and Coyote Creek subdivisions. Mr. Oliver advised that he is a member of the Home Owners Associations (HOAs) for Coyote Creek and Mission Ranch subdivisions; but was not a designated speaker at this meeting for the two groups. Mr. Oliver reminded that for the past 11 years he as a developer has represented that Mission View would not be collector / busy street. He noted the proposal to have Mission View become a collector street would be a change in General Plan and requested mitigation for 'minimal impact to the residents'. Mr. Oliver also informed that he had received a call from Mrs. Roland the owner of property to the east of the proposed project with Mrs. Roland voicing concerns of impacts of the road on her land. "We recognize there may be higher density in the future with a major street there," Mr. Oliver said. "We urge that there be mitigation by landscape at the rear of the theater – this is important as the visual impacts on residential areas."

Khoa Vo indicated he had sent a letter to address items in the draft EIR. Mr. Vo said he had questions regarding the two driveways into Mission Ranch and the response he received was not appropriate as the response addressed two driveways into the proposed center. "Item 7-8 does not address what I am asking," Mr. Vo declared. "The plan for DePaul to be a collector street will be changed to Mission View Drive. The question now is: will Mission View be changed to a four-lane thru-way in the future? This connects to another question: as it is now proposed to go all the way through, that will bring in more traffic and if there is no signalization, it will result in problems to the children and current residents. There is now fast traffic. Will you be looking to have slowing of traffic because of this?" Mr. Vo asked. Mr. Vo concluded by criticizing a member of the Commission as appearing to be supportive of the project at the neighborhood meeting, with Mr. Vo claiming there is a perceived conflict of interest.

Joseph Moran, 1491 Santa Ines Way, said he is a resident of Mission Ranch and lives adjacent to the proposed project. Mr. Moran stated opposition to the project, citing the "size and scope which would have significant impact negatively". Mr. Moran said the pollution of 22,000 cars would also increase the noise level significantly and cause visual degradation because of the lighting throughout the project.

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Chair Lyle noticed that Mr. Moran had submitted a letter regarding the EIR and asked if he had seen the response. Mr. Moran replied that he had not, and said it had just been placed on the City's website so he anticipated reviewing it shortly.

Mr. Moran continued that he also believed that there would be significant negative impacts on current shopping centers in Morgan Hill as the new center would draw shoppers away from existing businesses.

Mr. Moran offered several recommendations of requirements:

- an alternative project plan with a reduction in size as direct way to lessen impacts
- minimum physical buffer between the project/Cochrane Road/new road be increased at least 60-feet to create a natural buffer
- compliance with all City codes and PUD guidelines now existing (He said he was especially concerned with the request for higher light poles which he termed 'creation of a stadium like tone')
- elimination of billboards as there could be temptation to use these as advertising (Mr. Moran said it would be great in the interim for 'nice art' but it would evolve to advertising. A problem, he said: what's considered art for one – is not to another, so stringent guidelines would be needed.

Mr. Moran claimed confusion regarding the 12-pump gas station: "It was eliminated at the second meeting we attended, then back at the third meeting," he said.

Mr. Moran said he was requesting an economic analysis to be completed to advise the City regarding the net positive income/benefit of the project.

Kirstin Powell, 255 W. Julian St., San Jose, advised she is an attorney for the family which owns the Cochrane Plaza Shopping Center. Ms. Powell raised the following points:

- the proposed center will be detrimental to Cochrane Plaza and could cause long term vacancies
- there is a desire to avoid this project as it is another shopping center that proposes to be regional
- the question is: is this project worth it; the EIR says the center will not bring anything new and would be detrimental to what exists now
- the EIR indicates a possible detrimental effect on Downtown which could put the City at risk
- the exceptions to the PUD guidelines being asked for will require findings that may not be possible;

Ms. Powell spoke on the required findings saying she thinks the exceptions will have a detrimental effect on the surroundings and on the City of Morgan Hill. Ms. Powell expressed the thought that exceptions could be granted in very limited circumstances.

Turning to the mitigation measures listed which would try to help Cochrane Plaza, Ms. Powell said those listed were not adequate and that other retail centers would be hurt as well. The first issue, Ms. Powell said, would be what new tenants in Cochrane Plaza

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could replace Target noting that as it is current written, no groceries are allowed and it would be difficult to attract a grocery store if such a store would also be permitted in the new center. Ms. Powell urged that groceries be limited to Cochrane Plaza. She stated that eliminating the grocery store would not harm the new center but help Cochrane Plaza.

Ms. Powell concluded by asking: what will the City be gaining by the project? The EIR consultants say it would not be negative to the existing centers, but do not offer substantiation of that claim.

Joseph Andrade, 1090-B Peebles Ave., told the Commissioners he is a property owner and 'going to be neighbor' to the project. Mr. Andrade expressed concern about the outcome and the effect on the quality of life in Morgan Hill. "I've been here for 40 years and I think it will be good for the City when the new center comes in, but I am opposed to extending Mission View and eventually connecting to Vista de Lomas. About three years ago I was assured by City staff that Mission View would not be extended. What concerns me is bringing a large road in. I was told that the main arterial would be Butterfield and it would solve traffic, but now Butterfield is not being extended. My concern is that if the road goes through, there will be a huge impact of traffic. I am in favor of the center but concerned about the quality of life. I'm also concerned about the perimeter. I'm not opposed to ponds but a fence or some barrier is needed between the center and neighbors to the north. Construction... keeping tough on construction will keep Morgan Hill great," Mr. Andrade said.

Noting there would be no decision made at this meeting, and recognizing the fact that others might want to speak to the matter, **COMMISSIONERS MUELLER/ESCOBAR MOTIONED TO CONTINUE THE PUBLIC HEARING TO OCTOBER 25. THE MOTION PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.**

During discussion, the Commissioners went through the each of the PUD guidelines, raising several issues:

- location, height, and size(s) of proposed signage
- possibly agreement to change fuel station/convenience store location / how 'meshes' with boulevard concept / preference for gas station at south side of Cochrane
- need for 'exit conditions' if a provider leaves the gas station / possibility of tying the gas station to another retail, e.g., a 'big box store' or grocery (a majority of the Commissioners indicated a preference for having a fueling station)
- drive-thru numbers / locations / uses: should not just be fast foods
- parking concerns: locations / numbers
- grocery stores
- height issues (applicant says cinema is the feature makes a statement with 47-foot base sign to the upper portion being 60-feet)
- ARB guideline regarding rooflines
- ARB support for large number of flat roofs
- equipment on roofs: heavy screened needed
- screening for visual sides of building and at back of theater

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- gutters to be of high quality materials and blend in with architecture
- heights of storage areas / sprinkler issues
- City's PUD standard requiring 35% of buildings to be built at front setback (SP Tolentino advised of the intent to screen parking and saying if the Commissioners like the plan as shown, then the condition could be eliminated)
- need to look at whole landscaping plan / need for appropriate berming
- set-backs: averaging with encroachment / average would be 30 feet overall
- neon towers – hours of operation / changeable signs
- signs proposed exceed current allowable in City
- use of recommendation by the Ca Association of Nurserymen for tree container size
- earthen berm issue, including plantings
- walls: lattice structure instead of solid
- explanation (by PM Rowe) of the PUD standards
- pole heights for lighting service (photometric plan to be available for the October 25 meeting)
- pedestrian pathways
- 90-degree parking at specific locations
- loading areas / docks
- landscaping - with trees capable of attaining height quickly - on the north edge of the detention ponds
- possibility of limiting delivery times / need to address trucks with backup sounds
- concern that this residential area creates the need for additional restrictions
- enforcement
- need to define 'dead end drive aisles discouraged' based on the plan
- shared drive access / maximum use of fewer drives
- signage / use of banners throughout the center/ size and placement of signs
- freeway signage - size and placement
- request of applicant regarding outfall at detention ponds
- elimination of vending machines in the project
- need to have EIR consultants to provide additional information regarding changes agreed to by the applicant and/or discussed at the meeting this date
- potential need for further discussion / special meeting before October 25, 2005
- discussion of another meeting (special meeting)

ON A MOTION BY COMMISSIONERS MUELLER/ACEVEDO, STAFF WAS DIRECTED TO PREPARE FOR A RECESS OF THE MEETING TO OCTOBER 13, 2005 AT 6:00 P.M. FOR DISCUSSION OF THE ISSUES CONCERNING GPA-04-12: COCHRANE-CITY OF MORGAN HILL AND ZA-04-12/SD-05-05/UP-05-11: COCHRANE-DINAPOLI/BROWMAN AND ACTION ON THE REMAINING AGENDAIZED ITEMS FOR THIS MEETING OF OCTOBER 11, 2005. THE MOTION CARRIED WITH THE

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**AFFIRMATIVE UNANIMOUS VOTE OF ALL COMMISSIONERS PRESENT;
NONE WERE ABSENT.**

*The following items (5 – 7) were continued to **October 13, 2005**.*

OTHER BUSINESS:

5) MULTI-FAMILY VACANCY RATE REPORT

Bi-annual review of apartment vacancy rate as required in accordance to the City of Morgan Hill Municipal Code, Chapter 17.36.

6) APPROVAL OF THE PROCESSING SCHEDULE FOR THE DOWNTOWN MEASURE “C” COMPETITION

Proposed schedule for processing applications for the upcoming Downtown Measure “C” Competition.

7) HOLIDAY MEETING SCHEDULE

A request to cancel the December 27, 2005 Planning Commission meeting and discussion/action regarding other possible changes to the November and December meeting schedule.

ANNOUNCEMENTS:

PM Rowe noted a potential future item: moderate housing prices which would be discussed at the request of Chair Lyle. Chair Lyle said such discussion would be valuable in trying to ascertain whether or not to allow downsizing of commitments made by projects which received allocations.

PM Rowe continued with the following announcements:

He met with representatives of the Downtown Association last Friday (October 7, 2005) to go over the Draft Ordinance for Administrative Use Permits (Ordinance). The Downtown Association membership intends to recommend several suggestions to the City Council at the meeting on October 19, regarding specific measures recommended in the Downtown Plan at 3rd and Dunne. The Association will suggest a time limit on an Administratively approved permit (3 years) as well as a ‘trigger’: when commercial vacancy exceeds 55% and further that the vacancy be limited to retail buildings.

PM Rowe advised that he will meet with a committee of the Chamber on October 17, 2005 to get input into the Ordinance

PM Rowe announced that eleven applications have been submitted for the downtown affordable competition and therefore there will be a ‘true competition’. He advised that the Commissioners will discuss that competitions at the October 25th meeting since one of the applications is technically not a vertical mixed use and a decision must be reached whether it will be included in that phase of the competition on the 25th.

ADJOURNMENT:

With no further business to come before the Commissioners, and noting the motion for continuation of the meeting, Chair Lyle recessed the meeting at 11:30 p.m.

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MEETING

RECONVENED ON
OCTOBER 13, 2005:

With all Commissioners present, and staff as noted (page 1), Chair Lyle reconvened the Planning Commission meeting at 6:05 p.m. on **October 13, 2005**, noting the meeting had been continued from October 11, 2005.

BY CONSENSUS, THE COMMISSIONERS AGREED TO COMPLETE DELAYED ITEMS (5 – 7) AT THE BEGINNING OF THE CURRENT MEETING.

OTHER BUSINESS:

5) MULTI-FAMILY VACANCY RATE REPORT

Bi-annual review of apartment vacancy rate as required in accordance to the City of Morgan Hill Municipal Code, Chapter 17.36.

PM Rowe advised that vacancy rate survey must be submitted and accepted by both the Planning Commission and the City Council. The survey is presented bi-annually for review.

Noting the matter did not require public hearing, **COMMISSIONERS MUELLER/ESCOBAR MOTIONED ACCEPTANCE OF THE SURVEY RESULTS AND ESTABLISHMENT OF THE VACANCY RATE FOR OCTOBER, 2005. THE MOTION CARRIED BY UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.**

6) APPROVAL OF PROCESSING SCHEDULE FOR DOWNTOWN AND AFFORDABLE MEASURE C COMPETITIONS

Proposed schedule for processing applications for the upcoming Downtown Measure “C” Competition.

PM Rowe explained the tentative schedule proposed by staff.

Discussion ensued with Commissioner Benich noting the ‘key dates’ of November 22 and 23 would require ‘much homework’ within a relatively short period of time. Commissioner Mueller acknowledged the ‘huge amount of criteria’ to be reviewed and discussed.

Most Commissioners expressed preference for having one meeting with an early start time.

The numbers of allocations available and the need for direction from the Council for set asides for downtown and for 2009-10 was discussed.

STAFF WAS DIRECTED TO PREPARE A SCHEDULE WITH DECEMBER 13 AS THE START DATE FOR THE MEETINGS REQUIRED, AND COMMENCING THE MEETING AT AN EARLIER HOUR TO FACILITATE DISCUSSION OF GLOBAL ISSUES. It was reiterated that there was a strong wish to ‘plough’ through all the applications in one evening.

7) HOLIDAY MEETING SCHEDULE

A request to cancel the December 27, 2005 Planning Commission meeting and discussion/action regarding other possible changes to the November and December meeting schedule.

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Following discussion, **COMMISSIONERS MUELLER/ESCOBAR MOTIONED TO CANCEL THE NOVEMBER 22, 2005 MEETING, SCHEDULE A MEETING FOR NOVEMBER 29, AND CANCEL THE REGULAR MEETING OF DECEMBER 27, 2005. THE MOTION PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.**

ITEMS 3 AND 4 WERE RE-OPENED AT THIS TIME FOR DISCUSSION AND RECEIVING PUBLIC INPUT.

**3) GPA-04-12:
COCHRANE-CITY
OF MORGAN HILL**

A request to amend the General Plan Map and Circulation Plan of the Morgan Hill General Plan to relocate a future collector street to extend from Mission View Dr. north of Cochrane Rd. instead of extending from DePaul Dr. (4) A request for approval of a planned unit development, tentative map, and use permit for a 657,250-sf sub-regional commercial shopping center. The project site is 66.49 acres and is located at the northeast quadrant of Cochrane Rd and Hwy 101 in a Planned Unit Development/Highway Commercial (PUD/HC) Zoning District.

**4) ZA-04-12/
SD-05-05/UP-05-11:
COCHRANE-
DINAPOLI/
BROWMAN**

SP Tolentino indicated the discussion this evening would focus on comment letters, responses and other information on the EIR. She cautioned that if any issues were to arise not previously contained in the final EIR, those issues would not be included in the final EIR as public comment period had ended. Chair Lyle clarified that corrections would be accepted but not revisions.

Chair Lyle open the floor to public comment.

Kirsten Powell, attorney for the owners of the Cochrane Plaza Shopping said she had entered the major concerns raised by the owners. Ms. Powell said she had reviewed the comments to her letter but still some questions remained, citing specifically:

- the current Target site – which she indicated had a ‘good start of response’ , but the mitigation is weak. “We are looking for more substantive than suggested in the EIR,” Ms. Powell stated.
- prior suggestion by Commissioner Benich of a grocery would be valuable
- the EIR needs to help think of what to do with the space in Cochrane Plaza
- economics are the main concern
- potential for having a referendum vote to allow a grocery store in Cochrane Plaza
- concern about the mitigation requirement that Cochrane Plaza be “keep clean”; Ms. Powell indicated this was a desire of the owners at all times

Jim Arthur, 19097 Eagle View Dr. presented a list from others who couldn’t be in attendance at the meeting. Mr. Arthur said many of the neighbors had not had the opportunity to go over the items from Tuesday’s meeting. Mr. Arthur’s list included concerns of:

- assumptions are vague regarding traffic plus the ‘vague’ references to traffic which is the main concern of residents
- weekend traffic is projected to be 25% less traffic rather than that of

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- peak weekdays
- proposal for gas station; especially if '24/7 operation' neighbors very worried about noise, lights, pollution
- unrealistic at location for proposed fuel station
- strong objection to an 80-foot sign on Cochrane
- contradictory statements made in each of the three public meetings with the developer
- scaling of the 30-foot easement to 20-feet "We were 'sold' on 30-feet at the public meetings with the developer."

With no others in attendance to speak to the matter, the opportunity for public comment was closed.

Issues raised by the Commissioners at this meeting included:

- most of the Planning Commissioners are not in favor of the location at Mission View and Cochrane for the gas station
- reduction to less than 80 feet for signage on Highway 101 (applicant has agreed)
- further explanation of the 30-foot landscaping buffer, and variations thereto
- assumptions on traffic report

Sohrab Rashid traffic engineer and sub-consultant to PMC, environmental specialists, explained that the 'weekend traffic is projected to be 25% less' reference was really an indication of traffic in general in the area. — at retail centers the traffic is known to be higher in weekends but the commute traffic numbers are lessened. Mr. Rashid explained that when engineers complete a traffic analysis for CEQA, there is always a cut-off point. "The road being planned is for a completed project," Mr. Rashid stated. He then explained that what the study did was to provide links to the City's General Plan conditions.

Chair Lyle indicated his concern was with the interim as he talked about four lanes from Cochrane to Mission View with re-striping requirements. Chair Lyle also raised the issue of an additional 700 homes, some of which have either been approved or in the process of gaining approval. Chair Lyle said he felt there had not been a good analysis done south of Cochrane. Mr. Rashid told of additional data from other studies. Chair Lyle responded that the concern was that a detailed study had not been completed. Discussion ensued of the intersection at Cochrane and Mission View. Mr. Rashid agreed that a major concern is the intersection as he explained the necessary accommodations.

Responding to issues raised, Commissioner Escobar noted he is an employee of VTA and while not working in service planning area, he does attend all board meetings as he spoke on the current practice of VTA whereby a shuttle bus system has been launched in Los Gatos to ensure people can get to the rail system. He explained this is an augmentation of service, with the shuttle having several stops permitting riders to access to points throughout the City as well as travel to the train. Commissioner Escobar said the community bus system has a flexible route whereas some fixed routes are transporting within community but not necessarily to other communities. When questioned, Commissioner Escobar said VTA has noted some success with the

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program. Furthermore, he added, Morgan Hill Mayor Kennedy will be a new member of the VTA board and appears to provide support for the community bus system concept. "There has been a strong request to have community bus system implemented in Gilroy and Morgan Hill," Commissioner Escobar stated. Based on the information he has gleaned, Commissioner Escobar said studies have yet to be completed, but it appears to be a concept and design applicable to small cities.

Mr. Rashid joined the discussion, observing that community bus concept could be beneficial.

Referencing the addition of the additional 700 homes Chair Lyle asked about inclusion of the data into the EIR. PM Rowe advised that if it were ascertained the outcome would be altered significantly, an addendum or supplement to the EIR could be prepared.

Erika Spencer, representative of the environmental consultant firm, said that if significant data were generated, the EIR would have to be re-circulated, however if information only was received, there would not be a change in the EIR.

Discussion continued regarding the 400 already approved allocations plus the approximately 300 additional homes to be allocated in 2/2006, all of which will be in place by 2010.

John Dinapoli, 99 Almaden Boulevard, Suite 565, San Jose, addressed the Commissioners as the representative for the applicant. Mr. Dinapoli said the applicants have done a very thorough analysis, studying almost every intersection and expressing the need to have 'some cutoff'. "This could go on and on with the studies. We are somehow a moving target," Mr. Dinapoli said. Mr. Dinapoli spoke on the phases and what the developer hoped to accomplish in each of the phases. Mr. Dinapoli projected a 'start date' of March, 2006 while telling the Commissioners he thought the construction could be underway on some of the road work before that date. Mr. Dinapoli also said that he thought 50% of the project would be completed within two years.

SP Tolentino advised with the planned phasing, it is unknown if the developer will go to 2010 and exactly how many homes will be constructed; to be fair, a cut-off date was needed for completing study on the EIR.

Discussion followed regarding the length of the traffic study and the need for all data being presented. Mr. Dinapoli said he feels the project is being studied to death and declared this to be the most lengthy study he has ever been involved with

PM Rowe advised the matter will be returned to the Planning Commission meeting for action on October 25. PM Rowe also indicated that the City Council has postponed action on the connection study to Murphy Avenue, and noted that will most likely begin in January with completion anticipated for June. He said that the Murphy Avenue study is dependent on other studies to help tell of factors connected to this study.

Mr. DiNapoli responded to questions of building, phasing, and marketing issues by

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explaining that ‘for the most part the development will be tenant driven with smaller stores completed first and the larger scheduled when a tenant is in hand.

Commissioner Mueller again broached the subject of the traffic report, and asked Commissioner Escobar to expand on the community bus service he had briefly explained.

Commissioner Escobar told of the experimental program and how it works in Los Gatos. Noting it provides a ‘feeder service’ that the large fixed route buses have difficulty providing, it also meets a second market: moving people from one area to other area of town. Commissioner Escobar said the community bus system has gotten favorable response. “As presented to the Board of Directors it is suggested there is effort at promoting such a service in South County and there is strong likelihood – a lot of indication that could be more substantial in requests when Mayor Kennedy on board in January,” Commissioner Escobar said. He said that in his opinion – and made it clear that he was speaking as an individual, not reflective of VTA or the Planning Commission – there would not be objection to expansion to South County because the program was already in place and publicized. Commissioner Mueller stated that he had asked for Commissioner Escobar to provide detail as he (Commissioner Mueller) would like to see such a program used to provide strengthened mitigation in the EIR. Mr. Rashid cautioned that dictating by the applicant and VTA for service provision is not possible. Commissioner Mueller insisted that on strengthening language in the EIR could be ‘the applicant *shall* work with VTA....’

Chair Lyle stated that the impact noted in the EIR regarding the existing transit facility may not be adequate. “Weasel words are used and they are not adequate, if the matter is significant.” Mr. Rashid pointed out that the applicant will be required to build services to VTA standards. Commissioner Mueller agreed, saying that a new physical structure must be built if there is to be a bus stop and there must be a stop for this area.

Discussion regarding transit availability continued, with Chair Lyle arguing for inclusion of transit data as the lack of transit is significant.

Commissioner Escobar said the issue under discussion takes on better understanding better when the lifestyle is talked about. He also said that there is need for thrashing out attracting food service establishments which fit the Morgan Hill lifestyle: Olive Garden, Chili’s, etc. as he noted those eateries would most likely not locate in downtown but still could still have an effect on downtown. “Still we need more discussion of mitigation and that should be expanded,” Commissioner Escobar asserted. “Furthermore, it is possible that the downtown could benefit but that is not known.”

Other issues discussed:

- the cinema
- Burrowing Owl Plan in place in the City
- request by the Water District applicant to hold water below current run off levels because it would help City of San Jose
- archeologist indicated no find but mitigation required; the example of Murphy Springs was given in comparison as there is indication of an ancient Indian burial site but no find had been previously

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- reported
- concerns regarding the use of existing wells which cannot be used for commercial landscape irrigation purposes, but are OKed for residential landscaping; the wells provide a direct conduit from wells to the aquifer and a commercial use could cause runoff of oil, grease, etc.
- detention pond system ~ Coyote Creek; in the event of a 100-year flood, the requirement would be for all water to be detained on site; Ms. Spencer informed that City staff had met with representatives of the Santa Clara Valley Water District regarding this matter; Commissioners expressed concern that Coyote Creek would not be affected and that the direction of the Water District would be to create mitigation to levels below the current detention requirements

Commissioner Mueller commented this seems to be a very unusual mitigation. Ms. Spencer was directed to provide more information at the meeting of October 25.

DDPW Bjarke explained the applicant and the Water District had discussed the way in which the project was designed. A goal of the District, he said, was to eliminate impacts to Coyote Creek and to have provided a system at the site for stopping flooding in the event of 100-year flood. Commissioners expressed concern that this requirement would be precedence setting for other projects in the City with some speculation that the requirement must be flood control for the District as the 'bar has been changed'.

Chair Lyle noted the applicant wants to suggest some alternatives for the EIR in this matter but the alternatives have not yet been identified.

Discussion ensued regarding other measures which might need to be in place when Coyote Creek flows reach certain levels. DDPW Bjarke provided information that the matter had been brought up as the applicant proposed to discharge directly into the Water District facility.

Commissioner Escobar was excused at 7:40 p.m.

Commissioner Benich perceived an obligation to Cochrane Plaza regarding recommendations to City Council on matters of grocery store placement. Commissioner Benich indicated strong support on his part for a grocery in Cochrane Plaza. The matter will be discussed by the Commissioners at the next meeting. Chair Lyle commented on the need to consider suggestions made about the grocery store locations in each of the centers.

Other items discussed were:

- drive ways to the center
- need for traffic calming in the center
- whether the number of driveways could be minimized for truck deliver/truck backing
- safety issues
- circulation of truck traffic

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Gary Ward, project manager for Browman Development Company, told of plans for extensive landscaping at the back of the cinema. Mr. Ward also informed that there had been suggestion of providing a drive aisle behind the cinema. Chair Lyle promoted the concept of 'right-in, right-out' at identified locations.

SE Creer spoke on 'right-in / right-out' drives, and stating that such considerations would be contained in the Development Agreement conditions.

The need for a covered bus stop was discussed, with Mr. DiNapoli saying the bus stop would conform to VTA standards.

SP Tolentino provided an overview of the reason for the 20% limit on restaurants in the center, explaining it was dependent on parking and the percentage rationale was fixed in order to ensure adequate parking. SP Tolentino gave information garnered from studies in other areas, and told of the rationale for limitation on the number of restaurants. She also called attention to the way the mitigation measures were written, with a last minute change in the EIR: eating establishment *not* restaurants. Commissioner Mueller commented that the problem was a need to wordsmith so that on review for a conditional use it would not be a 'hard limit' until staff knows hard numbers in the project. SP Tolentino said that the research by City staff indicates that various cities have selected the 20% as 'middle ground'.

Commissioner Benich said that as he read the draft EIR he was disappointed in the way the numbers were generated as he called attention to the response to solid waste issues which he termed 'not enlightening'. "It seems there should be good historical data on the issue, and that could have been used," Commissioner Benich declared. He went on to point out the subject of potable water, saying both the data on water and sewer – someone who is involved in ensuring the City as a good steward of the environment - 'left me cold; surely there are better resources available for data' rather than just citing the Morgan Hill Master Plan. "How can we say the requirement of supply is being met if we don't know what the requirement is?" he asked. PM Rowe clarified the data for water and sewer was based on the General Plan and projections from that. Chair Lyle interjected that the Commissioners and Council members needed assurance that waste water would be looked at carefully.

Arterial and collector roads generated much discussion. Responding to questions, PM Rowe explained the projected plans for having Mission View north of Cochrane become a collector street.

Chair Lyle asked about the area south of Mission View becoming a collector road as well, and mentioned the intersection with DePaul Drive. PM Rowe advised that sometimes offset streets are treated differently and in this case DePaul is viewed as an arterial. Commissioner Benich said there were still plans to have a full service hospital on DePaul. Mr. Rashid interposed there was currently no concern about configuration for build out at Mission View and it might be premature to decide whether to enhance the intersection at DePaul or along Mission View. Cochrane Road was noticed to be a collector now, but could be considered arterial in the future.

Response letters to issues raised in correspondence from Planning Commissioner's

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comments were noted and received comment from the writers present:

- page 2.9 (1-4) last sentence: suggested response change indicate how much fill would be generated
- page 1-9 impact of Water District issue and permeable concrete use; concerns of requirement of oversize detention ponds

Commissioner Koepp-Baker requested staff to study the matter of porous pavement. DDPW Bjarke said the data on the new technology is mixed and there would be concern of incorporation into this center as it is of such a large scale. He advised that the City's Public Works Department is looking into the technology for compliance with some storm water requirements in the near future and this technology presents possibilities for those smaller projects.

Chair Lyle stated the Downtown Association is on record as having concerns that downtown will be impacted with the construction and operations of the center.

Saying he was disappointed with the numbers, Chair Lyle led discussion regarding population estimates and spoke about population growth restrictions under Measure C.

The need for increased fire/police man-hour projections were discussed with much disagreement to the EIR statements regarding public safety officers, and the need for full time on-site security. Responding Mr. DiNapoli said if the need arises, the company will provide security; he appeared to stop short of a commitment to provide for full time on-site security. The phrase starting with "including" doesn't make sense. It could be dropped along with the "was" in the prior line.

Stand alone fast-food sites were discussed.

Road emergency evacuation routes information would be valuable, Commissioners said, but the issue needed to be raised with study from the EIR.

Other items of concern for the EIR were:

the effect(s) on traffic and circulation when the new Courthouse is completed

need to 'beef up' section on waste water

public art and the use of art in the center to reflect the presumed lifestyle

hunting for a different way of treating the east wall; report to be received on the 25th regarding the use of banners/posters; ARB to set standards

SP Tolentino advised that on November 8 the applicant will ask for a sign variance.

Mr. DiNapoli commented that the public art selections and community service boards will be overseen by the ARB.

ADJOURNMENT: With no further discussion regarding the proposed center nor any announcements to be heard, the meeting was adjourned by Chair Lyle at 8:55 p.m.

MINUTES PREPARED BY:

JUDI H. JOHNSON, Minutes Clerk

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